

U.S. Patent Application No. 09/916,268

Docket No.: 10016243-1

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 2-6, 8-13 and 16-27 are pending. Claims 28-31 are added to secure an appropriate scope of protection to which Applicant is believed entitled. Claims 28-31 find support in the present specification at page 6, paragraphs 23 and 24.

Withdrawal of the objection to claim 16 is noted.

Claim 3 is not indefinite under §112

Claim 3 recites *inter alia* "using intelligent agents residing on one or more of the peer computers for . . . additional processing therebetween". The present specification at page 4, paragraph 16, describes operation of intelligent agents including processing being performed thereby and therebetween. Compliance with 35 U.S.C. 112, second paragraph, involves a determination of whether the claim apprises one of ordinary skill in the art of the claim scope, i.e., whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. The Examiner is requested to identify more specifically the lack of definiteness and/or suggest acceptable alternative language.

Based on the foregoing, withdrawal of the rejection of claim 3 is respectfully requested.

Claims 25, 2-6, 8-13, 16-18, and 21-27 are not anticipated by Chellis et al. (U.S. Patent Publication 2002/0120744)

A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Chellis fails to disclose all elements of the claimed subject matter for at least four reasons.

First, Chellis fails to disclose a sub-broker module capable of scheduling and monitoring the progress of the job request on one or more peer computers. Page 5, paragraph 49 of Chellis fails to describe at least a sub-broker module capable of monitoring the progress of the job

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request on a peer computer. For at least this reason, withdrawal of the rejection of claim 25 is respectfully requested.

Second, Chellis fails to disclose selecting an available peer computer qualified to process the job request. Page 5, paragraph 51 of Chellis fails to describe selection of an available peer computer qualified to process the job request. As stated in the present specification "[p]eer qualification means making sure the peer is in a state where it has no hardware or software failures after running a particular request and to make sure the peer is ready/can be 'prepared'." Chellis fails to disclose an available peer computer qualified to process the job request as defined in the present specification. For example, Chellis fails to disclose making sure the peer has no hardware or software failures after running a particular request. For at least this reason, withdrawal of the rejection of claim 25 is respectfully requested.

Third, Chellis fails to disclose selecting a sub-broker module capable of scheduling and monitoring the job request on the available peer computer. As the OA has not specifically identified how the claim is anticipated by Chellis, Applicants reasonably understand that the PTO asserts that the claim language is anticipated by feedback and monitoring component 120. Chellis describes feedback and monitoring component 120 as "monitoring resources . . . and generating feed back information concerning the resources." Chellis at page 8, paragraph 63. As such, Chellis fails to disclose a sub-broker module capable of scheduling the job request as claimed in claim 25. The feedback and monitoring component 120 is solely described in terms of having a capability of monitoring resources and generating feedback concerning the monitored resources without including the ability to schedule job requests on an available peer computer. For at least this reason, the rejection of claim 25 should be withdrawn.

Fourth, Chellis fails to disclose submitting the job request and the selected peer computer to the sub-broker module. As stated in conjunction with the third point above, the OA has not specifically identified how the claim is anticipated by Chellis and therefore Applicants reasonable understanding is that the PTO asserts that feedback and monitoring component 120 anticipates the claimed sub-broker module of claim 25. Chellis fails to disclose that the feedback and monitoring component includes the capability of receiving a submitted job request and selected peer computer. As stated supra, the feedback and monitoring component 120 is solely described in terms of having a capability of monitoring resources and generating feedback concerning the monitored resources. For at least this reason, the rejection of claim 25 should be

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withdrawn.

Based on each of the foregoing reasons, the rejection of claim 25 is respectfully requested to be withdrawn.

Claims 2-6, 8-13, and 26 depend, either directly or indirectly, from claim 25, include further important limitations, and are patentable over Chellis for at least the reasons advanced above with respect to claim 25. The rejection of claims 2-6, 8-13, and 26 is respectfully requested to be withdrawn.

Claim 3

With specific reference to claim 3, Chellis fails to disclose at least intelligent agents residing on one or more of the peer computers as claimed. Chellis describes "cooperating components" (at page 2, final line of paragraph 11) and a "discovery component 130 monitoring resources" (at page 8, paragraph 65); however, neither of the PTO-cited passages, i.e., page 2, paragraph 11 and page 8, paragraph 65, discloses intelligent agents residing on a peer computer. For at least this reason and for the reasons advanced above with respect to claim 25 from which claim 3 depends, withdrawal of the rejection of claim 3 is respectfully requested.

Claim 26

Claim 26 depends from claim 3 and is patentable over Chellis for the reasons advanced above with respect to claims 25 and 3 and based thereon withdrawal of the rejection of claim 26 is respectfully requested.

Claim 6

The rejection of claim 6 is not understood and further specificity and explanation is requested to understand how the cited passage of Chellis is being applied to the claimed subject matter. Applicant's attorney has reviewed the cited passage and is unable to identify any one of a patch queue sub-broker module, a pre-release sub-broker module, a command sub-broker module and a libc sub-broker module therein.

As stated above, claim 6 depends from claim 25 and is patentable over Chellis for at least the reasons advanced above with respect to claim 25 and withdrawal of the rejection of claim 6 is respectfully requested.

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Claim 11

Claim 11 depends from claim 25 and is patentable over Chellis for at least the reasons advanced above with respect to claim 25. Further specifically, claim 11 includes the limitation that a peer computer is "prepared by a global peer processing unit" which is not disclosed in Chellis. As stated in the present specification:

[024] Peer preparation means installing the correct release of the operating system as required by the request submitted by the user and installing the latest test sources to run against the request.

Present specification at page 6, paragraph 24.

Chellis at page 5, paragraph 51 fails to disclose either installing the correct release of the operating system or installing the latest test source to run against the request. Similar language is found in newly added claims 28-31. For at least this reason and for those advanced above with respect to claim 25, withdrawal of the rejection of claim 11 is respectfully requested.

Claims 27, 16-18, and 21-24

Claim 27 is patentable over Chellis for at least reasons similar to those advanced above with respect to claim 25 and withdrawal of the rejection of claim 27 is respectfully requested.

Claims 16-18 and 21-24 depend, either directly or indirectly, from claim 27, include further important limitations, and are patentable over Chellis for at least the reasons advanced above with respect to claim 27. The rejection of claims 16-18 and 21-24 is respectfully requested to be withdrawn.

Claims 19 and 20 are not obvious over Chellis in view of Kampe (U.S. Patent Publication 2001/0054095)

The rejection of claims 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Chellis in view of Kampe is hereby traversed. Claim 19 depends indirectly on claim 27 which, as described above, is not anticipated by Chellis. Further, Kampe fails to cure the above-noted deficiencies of Chellis and for at least this reason, withdrawal of the rejection of claim 19 is respectfully requested.

Further specifically, Kampe fails to disclose at least the claim limitation that any of said peer computers can become the broker. Kampe describes the "use of replication of hardware and

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software modules to achieve high-availability raises a number of new problems” and then describes a proposed replication solution using “a component role and assignment management system (‘CRIM’)” to alleviate these problems. Kampe at page 1, paragraph 10 and page 3, paragraph 38. Kampe does not teach that any of the managed components/replicated hardware and software modules can become the CRIM. Kampe describes the CRIM as being able to “help the system achieve high availability by managing components of the system. The CRIM may be replicated—for example, a primary CRIM may run on a master node of the networked computer system or cluster and a secondary CRIM on a backup node.” Kampe at page 3, paragraph 38. The Kampe system includes replicated hardware and software modules controlled by a centralized CRIM without teaching or suggesting that any of the replicated modules can become the CRIM. In contrast, claim 19 states that any of the peer computer can become the broker which is a feature not found in Kampe or Chellis. For at least this reason, withdrawal of the rejection of claim 19 is respectfully requested.

Claim 20 depends from claim 19, includes further important limitations, and is patentable over the applied combination of Chellis in view of Kampe for at least the reasons advanced above with respect to claim 19. The rejection of claims 20 is respectfully requested to be withdrawn.

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Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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